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C O N F I D E N T I A L ZAGREB 001595

SIPDIS

DEPT FOR S/WCI - PROSPER, EUR/SCE - KABUMOTO, EUR/ACE-MARKEY, INL/EEA-HARTSHORN  
BELGRADE FOR LUSTIG & NAZZARO  
SARAJEVO FOR RLA  
SKOPJE FOR HUBLER

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TAGS: KAWC PREL KJUS PHUM HR  
SUBJECT: PROSECUTOR,S COOPERATION PLAN DRAWS ICTY SUPPORT

REF: A. ZAGREB 01567  
B. BELGRADE 01781  
C. ZAGREB 01483

Classified By: Ambassador Ralph Frank for reasons 1.5 (b) & (d).

¶1. (C) SUMMARY AND COMMENT: Patrick Lopez-Terres, Chief of Investigations in the ICTY Office of the Prosecutor, has expressed enthusiastic support for Croatian Chief State Prosecutor Mladen Bajic,s initiative to pursue bilateral cooperation agreements between the state prosecutors of the countries of the former Yugoslavia (ref A). In a September 6 meeting with the Ambassador, Lopez-Terres hailed the State Prosecutor,s work, adding that Bajic,s new plan demonstrated exactly the spirit of cooperation the ICTY needs to succeed in its exit strategy. Bajic is currently providing extensive witness and evidence support to SAM,s state prosecutor in the Ovcara Farm war crimes case and is searching for ways to ensure that his colleague in Belgrade can reciprocate, despite political atmospherics (ref B). Bajic is skillfully floating his idea with the international community to win support before he gets any resistance from within the GOC or its neighbors. Once Bajic presents specifics, the Ambassador proposed early Embassy intervention with key political leaders to ensure the prosecutor,s plan succeeds domestically.

¶2. (C) Lopez-Terres assessed Bajic,s coordinating role in the GOC,s ongoing hunt for Ante Gotovina as extremely positive but said the quality of actual police work continues to be mixed, and the goal ) Gotovina in The Hague ) does not appear much closer. According to Lopez-Terres, Bajic claims to be making progress in improving police attitudes, particularly in Gotovina,s hometown of Zadar, but only with extraordinary effort. Bajic plans &more aggressive and visible8 police tactics to push the investigation forward. Post has no doubt about the prosecutor,s political will, but until the GOC removes the members of the police Lopez-Terres said have posters supporting Gotovina in their lockers, Bajic will continue to face an uphill battle. END SUMMARY AND COMMENT.

PROSECUTOR,S TRIAL BALLOON WINS ICTY SUPPORT

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¶3. (C) According to Lopez-Terres, Bajic has already drafted a model bilateral agreement on prosecutor cooperation and will soon present it to the MOJ. Bajic, who has excellent relations with his colleagues in the region, hopes to create a direct communication channel between state prosecutors, bypassing the diplomatic formalities of Mutual Legal Assistance and minimizing delays in witness appearances or evidence transfer - delays that could unhinge ICTY,s exit strategy.

¶4. (C) In addition to selling ICTY on his plan, Bajic has met with us as well as the OSCE and other multilateral organizations, seeking the international support he will need to overcome any political obstacles to his idea. Lopez-Terres doubted that politicians would object to the substance of Bajic,s proposal, but there may be turf issues with MFA or others as the state prosecutor strays outside the strict definitions of his mandate. Bajic is also likely counting on prosecutorial agreements to help him survive professionally if a lack of cooperation on the part of a neighboring government stalls his prosecution of cases transferred from the ICTY.

¶5. (C) When Bajic has finalized his plan, the Ambassador proposed to Lopez-Terres that the Embassy could assist by expressing USG support early for the concept to MFA and PM, noting that we want to ensure that Bajic has all the tools he needs. Post could also go to President Mesic, the Ambassador added, and highlight that we look forward to his support on this potential issue in his re-election campaign.

CASE TRANSFERS CRITICAL TO ICTY EXIT

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16. (C) Lopez-Terres made it clear that ICTY judges are counting on the success of case transfers. While ICTY will retain oversight, Lopez-Terres noted with a smile that pulling cases back to The Hague would be &incompatible with our exit strategy.<sup>8</sup> He reported that ICTY views Croatia as the most prepared country in the region to accept case transfers. The retrial in the Lora Prison case (ref C) will be a key opportunity for the Croatian judiciary to prove this readiness.

FRANK

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